



New York State Justice Task Force

Statement on Bail Reform

March 21, 2018

The New York State Justice Task Force (the “Task Force”) applauds the efforts of Governor Andrew Cuomo, the New York State Legislature, Chief Judge Janet DiFiore, and many others across the State working to improve the procedures by which defendants charged with criminal offenses are released prior to trial. This is important and pressing work, and it is multifaceted, requiring thoughtful consideration and, at times, compromise.

The Task Force is currently conducting in-depth research and analysis on the State’s bail system and process for timely disposal of cases. The aim is for us, as a body consisting of judges, prosecutors, defense attorneys, law enforcement officials, victim advocates, and others across the criminal justice system, to build on the important work now being done and to develop consensus on a number of difficult issues connected to that work—including, but not limited to, the most prudent way to approach pretrial services, preventive detention, and bail alternatives. At the outset, however, we emphasize that it is critical for the State to provide sufficient funding in order for any of these bail reform packages to succeed.

In addition, at this early stage, the Task Force notes several points that we hope can help animate the current discussion about pretrial release of defendants charged with criminal offenses.

- First, the Task Force endorses a presumption that defendants facing misdemeanor and certain non-violent felony charges be released without employing cash bail or the traditional bail bonds, either on their own recognizance or with the least restrictive non-monetary conditions necessary to ensure those defendants’ presence in court as required. The presumption may be rebutted where a court determines that aggravating circumstances exist. To the extent the court determines that the presumption has been overcome, the court should set forth its rationale on the record.
- Second, we recommend that there be enhanced training and education of judges, courtroom personnel, prosecutors, and defense attorneys regarding the diverse set of alternatives to cash bail and insurance company bail bonds available under the existing framework, including, but not limited to, unsecured and partially secured bonds.

- Third, we recommend that the State provide sufficient funding for pretrial services, in order to ensure that such services are meaningful, robust, and effective.
- Finally, we recommend that the State provide sufficient funding for uniform data collection and reporting on pretrial practices, in order to enable the thorough tracking and study of bail reform efforts. Data collection should include, though not be limited to, detention requests by prosecutors and detention orders by courts across racial groups.

We look forward to further contributing to this important conversation in the months ahead.